

**Remarks**

Claims 1 - 12 remain pending.

**1. Claim Rejections 35 U.S.C. §103**

Claims 1-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rehbein in view of Clear and Clement.

It is submitted that Rehbein, Clear, and Clement combined fail to disclose, teach or suggest an apparatus according to the present invention. The combination of Rehbein, Clear and Clement, even if proper, would fail to yield the modular deck panel apparatus of the present claims. First, there is no suggestion or motivation to modify or combine the references. Second, there would be no reasonable expectation of success in the combination. Third, the prior art references would not teach or suggest all of the claim limitations. Reconsideration of these rejections is requested.

Regarding claims 1, 4 and 12, the combination of Rehbein, Clear and Clement would fail to teach or suggest:

(1) a first portion of said plurality of elongated members having a series of apertures defined thereupon and each of the first portion of said plurality of elongated members being secured to an associated one of the series of joists with a plurality of fasteners passing through the series of apertures,

(2) a first portion of the plurality of elongated members engaging the top surfaces of the surfaces of the joist elements and extending across multiple modular panels, and

(3) a second portion of said plurality of elongated members extending across at least three joists and engaging the first portion to support the plurality of modular panels against lateral movement, and

(4) a gap distance between adjacent pairs of modular panels being substantially less than the thickness dimension of the modular panels.

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5.

Rehbein '858 does not teach "all of the limitations of the claims except panel with two layers." Rehbein does not teach an elongated support element which is secured to the underlying joist by a fastener passing through an aperture of the support element. See, Figure 2. Rehbein teaches that the panels 1 are secured with fasteners 10 passing through the panel but not through the support member 3. Any proposed modification of Rehbein to provide a support element is secured with fasteners passing through apertures of the support element would not be obvious as such modification would change the principle of operation of the prior art invention being modified (modular prefabricated deck block).

Rehbein does not disclose a support element which is secured to the top surface of the joists and which extends across multiple modular panels. Each of the support elements 3 of Rehbein extends along the joist surface across a single modular panel.

Furthermore, Rehbein does not disclose a support element which spans across at least three joists. It would not have been an obvious modification of Rehbein to provide a support element which spans across at least three joist as such modification would render the prior art invention unsatisfactory for its intended purpose, i.e., to provide a modular prefabricated deck block. Further, any proposed modification of Rehbein to provide a support element which spans across at least three joists would not be obvious as such modification would change the principle of operation of the prior art invention being modified (modular prefabricated deck block). Reconsideration of the rejection of these claims is solicited.

Clement teaches support members 20, 24 having a height which is substantially greater (more than two times) than the thickness of the panels 28. See, Figure 3. Additionally, Clement teaches that the distance between adjacent panels 28 is substantially greater than the thickness of the panels. In Clement, the distance between adjacent panels 28 is determined by the thickness of rib portion 62. The overall visual effect of a structure according to Clement includes panel top surfaces and top surfaces of support elements 20, 24. In comparison, the overall visual effect of a structure according to the present invention includes primarily panel top surfaces, i.e., the underlying support element of the present invention is recessed and substantially hidden from view when view from the top.


### 3. Request for Reconsideration and Allowance

Based upon the above Amendments and Remarks, claims 1-12 are believed to be in proper form for allowance, and patentable over the prior art made of record. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

Respectfully submitted, John Potter, by his attorneys,

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